

JUN - 5 2012

CLERK, U.S. DISTRICT COURT

By \_\_\_\_\_  
Deputy

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

JOHN TRACY JOSEY,

§

§

Petitioner,

§

§

v.

§

No. 4:11-CV-633-A

§

RICK THALER, Director,

§

Texas Department of Criminal

§

Justice, Correctional

§

Institutions Division,

§

§

Respondent.

§

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

Before the Court is petitioner John Tracy Josey's application/motion to proceed in forma pauperis on appeal following this Court's January 23, 2012, dismissal of his petition for writ of habeas corpus under 28 U.S.C. § 2254 for lack of subject matter jurisdiction, in part, and for failure to exhaust state remedies, in part. (docket entry nos. 22, 23, 28) Also before the Court are petitioner's April 19, 2012, and April 30, 2012 motions for extension of time. (*Id.* at 37, 38)

On March 2, 2012, the United States Magistrate Judge ordered petitioner to complete and return to the clerk of Court a certificate of inmate trust account so as to determine whether petitioner should be permitted to proceed in forma pauperis on appeal. (*Id.* at 30) Thereafter, petitioner filed various motions to extend time to comply with the order and/or motions to waive the appellate filing fees. (*Id.* at 31, 34, 35, 37, 38)

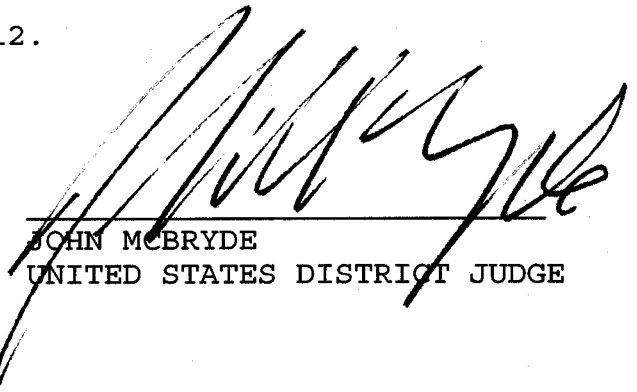
On April 30, 2012, the magistrate judge entered findings and conclusions relevant to the issue and recommended the Court deny petitioner's application/motion to proceed in forma pauperis on appeal and his April 19, 2012, motion to further extend time to comply with the March 2, 2012, order. (*Id.* at 39) The magistrate judge gave petitioner until May 21, 2012, to file written objections to the findings, conclusions, and recommendation. As of the date of this order, no written objections have been filed.

The Court has reviewed the pleadings and the record in this case, and has reviewed for clear error the findings, conclusions and recommendation of the magistrate judge. The Court concludes that, for the reasons stated by the magistrate judge, petitioner's application/motion to proceed in forma pauperis on appeal and his April 19, 2012, and April 30, 2012, motions for extension of time should be denied.

Therefore, the findings, conclusions and recommendation of the magistrate judge are ADOPTED.

The court ORDERS that petitioner's application/motion to proceed in forma pauperis on appeal and his April 19, 2012, and April 30, 2012, motions for extension of time are DENIED.

SIGNED June 5, 2012.



JOHN MCBRYDE  
UNITED STATES DISTRICT JUDGE